

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JULY JUSTINE SHELBY,	:	
	:	
Petitioner,	:	
	:	19-CV-2020 (VSB)
-against-	:	20-CV-3233 (VSB)
	:	
WARDEN J. PETRUCCI,	:	
	:	<u>ORDER</u>
Respondent.	:	
	:	
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VERNON S. BRODERICK, United States District Judge:

On August 3, 2022, Magistrate Judge Sarah Netburn issued a Report and Recommendation (“R&R” or “Report”) recommending that I grant July Justine Shelby’s petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241.¹ (Doc. 74.) The Government submitted its objections to the Report on August 31, 2022, (Doc. 80), and Petitioner submitted her response to the objections on October 7, 2022, (Doc. 83).

When a party objects to an R&R, a district judge must make a *de novo* determination as to those portions of the R&R to which a party objects. *See* Fed. R. Civ. P. 72(b)(3); *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). Pursuant to the standard often articulated by the district courts of this Circuit, “[i]f a party . . . simply relitigates his original arguments, the Court reviews the Report and Recommendation only for clear error.” *Antrobus v. New York City Dep’t of Sanitation*, No. 11CV5434CBALB, 2016 WL 5390120, at *1 (E.D.N.Y. Sept. 26, 2016), *aff’d*, 704 F. App’x 27 (2d Cir. 2017). After its review, the district court may

¹ Ms. Shelby filed a writ of habeas corpus pro se on March 3, 2019. (Doc. 2.) On November 12, 2020, I ordered the Criminal Justice Act (“CJA”) Administrator for Southern District New York to appoint Ms. Shelby counsel from the CJA Habeas Panel. (Doc. 24.) On November 19, 2020, Jeffrey G. Pittell noticed his appearance on behalf of Ms. Shelby. (Doc. 25.)

then “accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1).


I have reviewed the Report in its entirety, and I do not find any clear error in the thorough, detailed, and well-reasoned Report. Accordingly, I overrule each of the Government’s objections and adopt the Report. I now issue this short order adopting the Report granting Petitioner’s petition for a writ of habeas corpus and order that Ms. Shelby be transferred to a female facility as soon as practically possible. This Order will be followed by a detailed Opinion & Order stating my reasoning and findings. Accordingly, it is

ORDERED that the Government’s objections are OVERRULED, and the Report is ADOPTED in its entirety.

IT FURTHER ORDERED that Petitioner’s Writ for Habeas Corpus is GRANTED. BOP is ordered to transfer Ms. Shelby to a female facility as soon as possible, and in any event within 7 days. Respondents are directed to update me by November 4, 2022 regarding the timeline and plan to transfer Ms. Shelby to a female facility, and to notify me once Ms. Shelby has been completely and successfully transferred to a female facility.

IT IS FURTHER ORDERED that parties submit a joint letter 30 days after Ms. Shelby’s transfer to a female facility updating me concerning Ms. Shelby’s adjustment to the new facility. SO ORDERED.

Dated: November 1, 2022
New York, New York


Vernon S. Broderick
United States District Judge